

Appl. No. 10/758,640
Amdt. dated February 14, 2005
Reply to Office Action of January 11, 2005

REMARKS/ARGUMENTS

Claims 1 - 20 are presented for Examiner Pickett's consideration.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

By way of the Office Action mailed January 11, 2005, Examiner Pickett rejected claims 1 - 5 and 7 - 15 under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 3,145,840 to Wright in view of U.S. Patent Number 5,377,837 to Roussel. This rejection is respectfully traversed to the extent that it may apply to the presently presented claims.

Applicant's independent claims 1 and 10 recite in paragraph c) that: "an array of compressible articles are enclosed between the first and second sleeves. Each sleeve has at least one side wall." Each of the articles 12 has "at least one planar surface 28 aligned substantially parallel to at least one of the first and second walls, bottom and top walls 18 and 24, and are held in compression in a direction that is substantially perpendicular to the planar surface 28." The alignment of such compressible articles 12 within Applicant's package is necessary for the package 10 to function properly in retaining and dispensing the compressed articles 12. Applicant, also shows in Figure 5 that the "opening is formed in the second (top) wall 24." This means that the planar surface 28 of each article 12 is aligned parallel to the opening 40.

Applicant agrees with the Examiner that the Wright patent discloses a package, but this package does not retain articles in a compressed state. Applicant also agrees with the Examiner that the Roussel patent discloses retaining articles in a compressed state but not in a similar fashion as taught by Applicant. In fact, the Roussel patent teaches away from the orientation recited in paragraph c) of Applicant's claims 1 and 10. At column 1, lines 34 - 40, Roussel describes the disadvantage of orienting the articles as Applicant claim.

"In fact, extraction of the products one by one from such a package poses problems in that, due to their high degree of compression, those products closest to the opening tend to emerge by themselves via the opening thus created, or several tend to emerge simultaneously when a pulling action is exerted on the product closest to the opening."

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The Roussel patent goes on to state at column 1, lines 57 -65 that:

"According to the invention, the envelope also comprises, on a first side of the bag which is perpendicular to the direction of compression of the products, ... and the opening means are provided on a second side of the bag in a zone adjacent to the first side."

In other words, the opening is not in the first or second walls parallel to the direction of compression of the articles, as claimed by Applicant, but instead is in the wall which is oriented at 90 degrees to the direction of compression. One skilled in the art, in trying to combine the teachings of the Wright and Roussel patents, would be led away from Applicant's invention. Therefore, the combination of the Wright and Roussel patents fail to teach or disclose Applicant's claimed invention and should be withdrawn at this time. Accordingly, Applicant believes that claims 1 - 5 and 7 - 15 are patentably distinct over the combination of the cited references and should be allowed at this time.

In addition, the combination of the Wright and Roussel patents would produce a package that functions entirely differently from the package claimed by Applicant. In Applicant's package, once the attachment and release member is removed, the compressed articles can expand and cause the second sleeve 20 to telescopically move upward, see paragraph d) of claim 1. As articles are removed from the package 10, the second sleeve 20 will telescopically move downward toward the first sleeve 14. In a package formed by the combination of the Wright and Roussel patents, this can not occur because Roussel states that the articles must be oriented at 90 degrees to the opening formed in the top wall. As articles are removed from such a package, the upper section will remain stationary, blocked from downward movement by the remaining products. This construction also goes against the teaching of Wright wherein at column 2, lines 20 -24, Wright states the following:

"As shown, the upper section 11 is slightly larger in area than the lower section 12, so that when the connection B aforesaid is severed, the upper section 11 may slide downwardly upon the lower section 12 while the stack of interfolded sheets 10 of tissue paper are being dispensed."

Accordingly, the combination of the Wright and Roussel patents fail to teach or disclose Applicant's claimed package or the way the package is intended to function. For these

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reasons, Applicant believes that his claims 1 – 5 and 7 – 15 are patentably distinct over the combination of the Wright and Roussel patents.

By way of the Office Action mailed January 11, 2005, Examiner Pickett rejected claims 6 and 16 - 20 under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Number 3,145,840 to Wright in view of U.S. Patent Number 5,377,837 to Roussel and further in view of U.S. patent number 5,219,421 to Tipping. This rejection is respectfully **traversed** to the extent that it may apply to the presently presented claims.

Applicant agrees with the Examiner that the Tipping patent does disclose a removable flap which can create an opening into the package. However, even when the Tipping patent is combined with the Wright and Roussel patents, Applicant's claimed invention is not disclosed for the reasons advanced above. Applicant specifically claims in paragraph c) of independent claims 1 and 10, and in paragraph d) of independent claim 16, that the compressible articles have at least one planar surface that is aligned substantially parallel to the first (bottom) and second (top) walls of the package. In claims 10 and 16, Applicant also claims in paragraph c) that the opening is formed in the second (top) wall. This means that the planar surface of each article is aligned parallel to the opening. Roussel teaches that the products are aligned perpendicular to the opening. Roussel further recites why the products should not be aligned parallel to the opening, as claimed by Applicant. Therefore, the combination of Wright, Roussel and Tipping fail to teach Applicant's invention and should be withdrawn at this time. Accordingly, Applicant believes that claims 6 and 16 - 20 are patentably distinct over the combination of the cited references and should be allowed.

For the reasons stated above, it is respectfully submitted that all of the presently presented claims 1 - 20 are in form for allowance.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-2455.

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Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306 on February 14, 2005.

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